

IN THE MATTER OF AN ARBITRATION
BETWEEN:

CONFEDERATION COLLEGE

("the College")

and

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

("the Union")

AND IN THE MATTER OF A CLASSIFICATION GRIEVANCE OF ENRICO
PUCCI (OPSEU # 773103)

ARBITRATOR: Ian Springate

APPEARANCES:

For the College: Jeannine Nagy, Manager, Staff Development
Lee Johnson
Darlene Giba

For the Union: Adair Conlon, Chief Steward
Floren Prosyk
Enrico Pucci

HEARING: In Thunder Bay on April 9, 2008

DECISION

INTRODUCTION

The grievor is classified as an AV Technician. He and technicians who address IT matters work under Mr. Lee Johnson, Manager, IT Customer Services.

By way of a grievance dated May 8, 2007 the grievor contended that his job was improperly evaluated. He submitted that his position should be rated at payband H rather than at payband G as assigned by the College.

The parties agree on nine of the eleven factors under the applicable job evaluation system. The other two factors, namely analysis and problem solving and independence of action, are addressed below. The College's ratings for all eleven factors result in a total of 510 points, which is within the 460 to 519 point range for payband G. The Union's ratings with respect to the two factors in dispute would raise the total to 574 points, within the 520 to 579 range for payband H.

During the grievance procedure the College amended the position description form ("PDF") relating to the grievor's position to meet certain concerns raised by the grievor. The College disagreed, however, with certain other proposed changes advanced by the grievor and the Union. At the hearing the spokesperson for the College contended, with considerable justification, that the proposed changes were designed to place language from the definitions for factor levels sought by the Union into the PDF.

A BRIEF OVERVIEW OF THE GRIEVOR'S DUTIES AND RESPONSIBILITIES

During the hearing the grievor described himself as the College's AV expert. His evidence and entries in the PDF indicate that he performs several different functions. One involves supporting audio/visual technology in classrooms and labs, including videoconferencing. According to the PDF this takes up about 35% of his time. The grievor indicated that when departments want to install or make modifications to AV equipment in a classroom or lab they come to him and he ascertains what it is they are after. He said that he then brings in contractors and facilities staff. The grievor said that the equipment involved is fairly sophisticated and he uses his knowledge of electronics to ensure that purchased components are compatible and will work together as a system. He gave the example of a client advising him that they want cameras and monitors installed in a classroom so that students are better able to see what faculty are doing. He said that he would get hold of a camera retailer and then help to coordinate the process and he might also perform certain aspects of the installation.

In connection with his role in supporting AV technology the grievor is frequently called upon to address problems with equipment in classrooms and labs. The grievor described these as “911 calls”. He indicated that sometimes he can deal with a matter over the phone but often he will attend at the location and troubleshoot. He indicated that there could be a number of different reasons for a malfunction and his troubleshooting involves a process of elimination in order to pinpoint the problem.

An additional 20% of the grievor’s time is taken up with AV equipment setups. The grievor testified that whenever an inside or outside group holds a special function they discuss their needs with him and he then sets up the required equipment and demonstrates its use. Mr. Johnson noted that AV set up always relates to a customer’s request. He gave the example of a customer holding a dinner in the cafeteria and wanting projectors in the ceiling, three microphones and background music with dinner. He said that the grievor would work out the technical details.

For an additional 5% of his time the grievor operates equipment, including camera and sound operations. The grievor gave the example of a recent eco-conference where he and another individual videotaped some of the sessions using broadcast quality equipment. Mr. Johnson testified that the grievor works with a customer with respect to what is required and ensures that a video meets customer expectations.

Some 20% of the grievor’s time is taken up in managing the College’s photo-ID card system. This involves spending a week each September photographing students and issuing ID cards to them. The grievor is also responsible for maintaining and updating the College’s photo-ID card electronic database.

Yet another aspect of the grievor’s job, which takes up about 15% of his time, involves working with the College’s flight training devices/simulators which students use in lieu of actual flight time. The grievor does maintenance, troubleshooting and repair work on the equipment. He also tests them to ensure that they meet government certification standards. The grievor testified that the equipment is regulated “quite tightly”. He also said that twice a year Transport Canada personnel come and test the equipment to ensure that standards are being met. Mr. Johnson testified that the equipment is very expensive and complicated but the government has very strict requirements for a simulator, including a set of guidelines respecting how pieces need to work together.

THE FACTOR OF ANALYSIS AND PROBLEM SOLVING

The job evaluation manual notes that this factor measures the level of complexity involved in analyzing situations, information or problems of varying levels of difficulty

and in developing options, solutions or other actions. The College rated the grievor's position at level 3 worth 78 points. The Union submits that the rating should be at level 4 worth 110 points. The job evaluation manual sets out the following factor level definitions:

3. Situations and problems are identifiable, but may require further inquiry in order to define them precisely. Solutions require the analysis and collection of information, some of which may be obtained from areas or resources which are not normally used by the position.

4. Situations and problems are not readily identifiable and often require further investigation and research. Solutions require the interpretation and analysis of a range of information according to established techniques and/or principles.

The job evaluation manual defines the term "established techniques and/or principles" used in the level 4 definition as follows:

Established techniques and/or principles – recognized guidelines and/or methods to accomplish a desired outcome. Can be defined as an individualized way of using tools and following rules in doing something; in professions, the term is used to mean a systematic procedure to accomplish a task.

The PDF form asks for examples of analysis and problem solving that are regular and recurring. The PDF prepared by the College lists three such examples. The first one reads as follows:

Key issue or problem encountered.

During a multi-site videoconference session, one of the remote sites reports sound, video, or connection problems.

How is it identified?

Class technician or user reports problem to the Help Desk.

Is further investigation required to define the situation and/or problem?

If so, describe.

Further investigation into this type of problem is typically required. Customers involved in this situation would be located at remote sites requiring the technician to visit the local classroom to inspect the

equipment, as well as call the remote site(s) to help troubleshoot over the phone. Computer network/firewall issues may also require the incumbent to contact senior technical support staff.

Explain the analysis used to determine a solution(s) for the situation and/or problem.

In this scenario, the problem could be caused by equipment failure, incorrect equipment settings, network traffic/connection problems, user error, or other outside issues. The incumbent must investigate the problem, and then use proper troubleshooting techniques to help narrow down the exact problem and apply a fix or solution.

What sources are available to assist the incumbent finding solution(s) (e.g., past practices, established standards or guidelines).

Past practices, other departmental/external technical staff.

Although the College objected to several proposed amendments to the PDF advanced by the Union it did not expressly take issue with the following proposed addition to the example set out above. It describes in some detail what steps the grievor might take in response to a sound problem which occurs during a videoconference:

For example, a video conference reports no sound from one site. Re-booting the system does not resolve the problem. Since the microphones are in series, it is possible one malfunctioning microphone can prevent the second from working. The incumbent directs the on site technician to disconnect the second microphone. The problem persists so it may be the first microphone or the cable or the video conference unit. The microphones are switched and it works. The conference can proceed and the first microphone is sent in for repair.

The second example in the PDF relates to a situation where a “smart” or videoconference classroom or lab needs to be modified with new equipment or software to meet changing requirements for delivery. The PDF states that the issue or problem is identified through planning meetings with other academic departments or classroom technicians and then continues as follows:

Is further investigation required to define the situation and/or problem? If so, describe.

In order to properly integrate new equipment into the classroom, the incumbent must fully understand the current configuration of the room and

then talk to the customer to understand fully what is now required. In many cases the incumbent will need to visit the classroom itself to double-check the exact equipment specifications in the room so as to understand what is required for the new integration.

Explain the analysis used to determine a solution(s) for the situation and/or problem.

Once the initial investigation into this problem has been done, the incumbent will also be typically required to perform some experimentation, research, calls to vendors etc. in order to understand what is required to modify the technical layout of the classroom. The decision on how to properly modify the room to meet the new requirements could involve manual reconfigurations of existing equipment/settings, or integration of the newly purchased equipment.

What sources are available to assist the incumbent finding solution(s) (e.g., past practices, established standards or guidelines).

Vendor technical assistance, possible other College technical staff, as well as technical manuals. In some cases past practice may be used.

At the hearing the grievor gave several specific examples of his involvement in making changes to rooms. One involved a culinary lab where chefs wanted cameras installed in the ceiling so students could watch monitors and better follow what the chefs were doing. The grievor said that he helped to coordinate the vendors and facilities staff and pointed out that a contractor would have to be brought in to provide power at points he had identified. According to the grievor the project went over budget and he was asked to make it cheaper. He said that the vendor wanted to run wires into the ceiling using conduit and he proposed that they instead use specialty rated cable at a lower cost.

The third example in the PDF relates to a flight training simulator not performing properly and the situation coming to the grievor's attention through a report from a user or through certification check trials. The PDF then goes on as follows:

Is further investigation required to define the situation and/or problem? If so, describe.

Yes – often the incumbent must talk to the user and then perform steps to try to reproduce the problem.

Explain the analysis used to determine a solution(s) for the situation and/or problem.

Problems of this nature could typically be software, hardware or user related. To successfully diagnose the problem the incumbent must follow proper troubleshooting techniques. This may involve reading technical manuals, working with vendor technical support, as well as trial/error experimentation.

What sources are available to assist the incumbent finding solution(s) (e.g., past practices, established standards or guidelines).
Technical manuals, vendor technical support.

As noted above, the definition for a level 3 rating refers to situations and problems that are identifiable but may require further inquiry in order to define them precisely. The definition for a level 4 rating refers to situations or problems which are not readily identifiable and often require further investigation or research.

The grievor acknowledged that some of the problems he handles are readily identifiable, in part because they are repetitive. He gave the example of a member of faculty not being able to display what is on their laptop onto a screen. He indicated that for other problems he must troubleshoot in order to ascertain the cause of a problem.

Mr. Johnson contended that the very nature of the grievor's job is reactive. He said that the customer identifies a problem, such as a projector not working, sound not working or the video is frozen. He said that the grievor does troubleshooting in order to define precisely what the problem is. Mr. Johnson testified that when a classroom is upgraded the matter is given to the grievor, which might be that video conferencing capacity needs to be installed. He said that it is up to the grievor to figure out how the technical details will be sorted out. At another point in his evidence Mr. Johnson said that a customer needs the grievor to help them get to where they want to be but it is the customer, not the grievor, who identifies the problem.

The term "further inquiry" in the level 3 definition is obviously meant to involve something less extensive than the reference to "investigation and research" in the level 4 definition. In circumstances where the grievor does little more than ask questions of others in order to ascertain how equipment has performed, this would involve further inquiry. Where the grievor works on and experiments with equipment, however, or has someone at a remote site do so under his direction, this reasonably becomes an investigation and, depending on the circumstances, might also involve research.

In connection with the first example set out in the PDF relating to problems at a remote site during a multi-site videoconference the PDF refers to "further investigation" into the problem typically being required. In the second example concerning the modification of a room with new equipment or software, the PDF speaks of steps the

grievor is required to take to understand the situation or problem, including visiting a classroom to double check exact equipment specifications. It then goes on to outline what the grievor will do: “once the initial investigation into this problem has been done”. The third example set out in the PDF refers to the grievor talking to the user and then “performing steps to try to reproduce the problem”.

In all three examples the wording of the PDF reflects an investigation in order to define the situation or problem and, at least with respect to the second example, some degree of research. It follows that with respect to identifying situations and problems certain recurring issues faced by the grievor fit within the wording of the first sentence for a level 4 rating.

This conclusion is not by itself sufficient for a level 4 rating. The level 4 definition also states that: “Solutions require the interpretation and analysis of a range of information according to established techniques and/or principles”. This contrasts with the definition for a level 3 rating where solutions require “the analysis and collection of information”. As noted above, the job evaluation manual defines “established techniques and/or principles” as recognized guidelines and/or methods to accomplish a desired outcome. It notes that the term can also be defined as an individualized way of using tools and following rules when doing something. The definition also notes that in the professions the term is used to mean a systematic procedure to accomplish a task.

The spokesperson for the union contended that the grievor’s troubleshooting involves a methodical process of applying electronic principles to determine the fault in a complex system. The grievor contended that his troubleshooting involves a systematic method of trying to determine a problem in a complicated system. Mr. Johnson, however, contended that troubleshooting does not involve a systematic analysis of a problem but rather a step by step process of elimination. He gave the example of a video projector not working and the grievor checking to ensure that it is turned on, that the connections had not been unplugged, that the lamp had not burnt out and so on. He said that the grievor might narrow the problem to a piece of electronic equipment and then be required to research with the vendor how to continue to troubleshoot.

It is apparent that the investigation process engaged in by the grievor in order to identify problems that arise during videoconferencing sessions and when equipment is not functioning properly is the same process by which the problems are usually resolved. The spokesperson for the union reflected this situation in her argument about the grievor’s troubleshooting and how it involves a methodical process of applying electronic principles to determine the fault in a complex system. Once the fault is isolated the resolution is usually at hand. For example, in the Union’s proposed addition to the first example set out in the PDF the grievor’s approach to a video

conference where the sound is not working involves him tracking the problem to a specific microphone. The actual solution has the grievor replacing the microphone and sending it out for repair. In these types of situations it might be said that the grievor uses a systematic procedure. It cannot, however, reasonably be said that when resolving a problem he engages in the interpretation and analysis of a range of information according to established techniques and/or principles, which what is required for a level 4 rating.

The situation is different for issues relating to installing and integrating AV equipment into classrooms and labs. The second example discussed above indicates that in these types of situations there is a division between the grievor doing an initial investigation to ascertain the nature of an issue or problem and him later engaging in a decision making process. With respect to this example the PDF notes that the grievor will typically perform “experimentation, research, calls to vendors etc. in order to understand what is required to modify the technical layout of the room”. This type of activity can reasonably be described as involving the interpretation and analysis of a range of information according to established techniques associated with electronics.

Having regard to these considerations I conclude that the grievor’s role in providing technical expertise with respect to the installation and integration of AV equipment into classrooms and labs involves situations and problems that are not readily identifiable and which often require further investigation and research. Further, solutions require the interpretation and analysis of a range of information according to established techniques. Accordingly, this aspect of the grievor’s position meets the criteria for a level 4 rating.

I was not advised how much time the grievor is actually involved in installing and integrating AV equipment in classrooms and labs. The PDF indicates that this is part of the 35% of the time he spends in supporting AV technology in classrooms and labs. The second example above, however, is given as one example of analysis and problem solving that is regular and recurring. Given these considerations I find that the grievor’s role with respect to reconfiguring classrooms and installing and integrating AV equipment in classrooms and labs (and only this function) justifies a level 4 rating worth 110 points.

THE FACTOR OF INDEPENDENCE OF ACTION

The job evaluation manual states that this factor measures the level of independence or autonomy in a position. It states that consideration should be given to the types of decisions the position makes; what aspects of the tasks are decided by the position on its own or what is decided by, or in consultation with, someone else, such as

the supervisor; and also the rules, procedures, past practice and guidelines that are available to provide guidance and direction.

The College rated this factor at level 3 worth 78 points. The Union argues for a level 4 rating worth 110 points. The factor level definitions read as follows:

3. Position duties are completed according to general processes. Decisions are made following general guidelines to determine how tasks should be completed.
4. Position duties are completed according to specific goals or objectives. Decisions are made using industry practices and/or departmental policies.

The job evaluation manual contains the following definitions of three of the terms used in the factor level definitions namely:

Process – a series of activities, changes or functions to achieve a result.

Industry practice – technical or theoretical method and/or process generally agreed upon and used by practitioners to maintain standards and quality across a range of organizations and settings.

Policies – broad guidelines for directing action to ensure proper and acceptable operations in working towards the mission.

The parties disagree on the appropriate PDF wording for this factor. At the hearing, however, the Union did rely on the following statement in the PDF prepared by the College:

Mostly all technical or required purchasing details and decisions involved with the job will be decided by the incumbent. Incumbent will generally choose between workload priorities as well as the processes to complete the many varied tasks inherent to the position.

The grievor testified that he has pretty free rein when performing his work. He said that Mr. Johnson generally does not assign tasks to him although Mr. Johnson might receive a request from a faculty member and pass it on to him. The grievor said that he schedules himself for projects and if maintenance is required for a classroom he checks the time schedule and then schedules himself into the room.

Mr. Johnson indicated that most work is assigned to the grievor and other technicians in response to calls to the help desk. He said that a lot of situations involving the grievor are identical and so past practice provides a structure for resolving them. He indicated that when the grievor completes a job he is to make notes about what the problem was, what he did to resolve it and the length of time that it took. Mr. Johnson said that he uses this information to review the grievor's work. He also said that at times he reviews the grievor's work by talking to the customer or by looking at the work himself. He noted that when a problem is not fixed to a customer's satisfaction he will hear about it from the customer.

The evidence establishes that most problems with AV equipment are referred to the grievor by others and Mr. Johnson monitors his work performance. The evidence indicates that problems with the flight simulators are either drawn to the grievor's attention by pilots or he discovers them when testing equipment to ensure that it meets Transport Canada requirements. The grievor is contacted by others to assist with their plans to modify the AV capability of a room.

As noted above, the Union relies on a statement in the PDF about most purchasing details and decisions being made by the grievor. Also in the PDF is another statement, one which the Union proposes be removed from the document, which states that larger purchasing decisions are decided in consultation with the supervisor. Mr. Johnson testified that he is in fact involved in all decisions respecting large purchases and he is also involved if a budgetary constraint is involved.

There are notes to raters in the job evaluation manual designed to clarify the differences between a level 2 versus a level 3 rating for this factor and also between a level 4 and a level 5 rating. One of the notes includes the following statement:

Level 3 - specific results or objectives that must be accomplished are predetermined by others. The position has the ability to select the process(es) to achieve the end result, usually with the assistance of general guidelines. The position has the autonomy to make decisions within these parameters.

In its written brief the College contended that the tasks completed by the grievor are completed according to clearly articulated guidelines from the department, the Ministry and/or Transport Canada and because the guidelines are rigid the results are predetermined by others. The grievor disputed that this was the case. He said that in terms of modifications to classrooms and labs he might have to tell faculty that what they want is not feasible, too expensive or will not work in the room in question. He also said that he will tell them that they can't get what they want and then tell them what they can get. It appears from this and other evidence that the grievor provides technical

advice to others respecting how much of what they want is actually attainable. The grievor, however, is always working towards a result that has been decided on by others.

The grievor contended that when he is working on a flight simulator he is not following a College guideline but rather a government regulation and to his mind a regulation is worth more. Mr. Johnson indicated that to meet government regulations the grievor goes through a check list to ensure that all variables are within Transport Canada standards. He contended that the regulations guide the grievor in completing his work, not industry practices. It is apparent that however one describes the grievor's work with flight simulators and devices someone else has set the specific results that he must meet. The note to raters set out above indicates that such a situation is associated with a level 3 rating.

The Union proposed including in the PDF three examples of actions undertaken by the grievor which it contended illustrated that some of his assignments are self-directed. One of these examples related to the grievor recommending the installation of VHS players into projector equipped rooms and him connecting them to the projectors rather than have faculty bring in VHS players and TVs. In the second example the grievor installed a public address system that was no longer required in another part of the College into a room at the College residence after receiving Mr. Johnson's permission to do so. The third example related to the grievor setting a power down timer on projectors in order to save bulb life after he had received complaints of malfunctioning controls in several classrooms.

At the hearing the parties disagreed as to whether these three examples actually illustrated self-direction on the part of the grievor. More importantly, the grievor acknowledged that these types of situations are rare. He said that he tries to be proactive but at times the opportunities are just are not there. In the circumstances I accept the College's contention that the examples are not an appropriate basis for rating the grievor's position.

The grievor stated that the reference to "general processes" in the definition for a level 3 rating brings to mind someone entering data or doing something else that is repetitive. He compared this to his work in responding to calls and performing special projects, which he said involve performing a specific task. He argued that he utilizes industry practices related to electronics when performing his duties. He further contended that when dealing with flight simulators/devices he follows industry practices or standards that apply across Canada and in different organizations.

The grievor testified that manufacturers supply audio visual components and equipment which are not to the same standard and while some equipment can be

integrated some cannot. He said that he uses his electronic background to pick out the right components. He subsequently said that electronics is a science and he must apply that science to know what equipment will work together. He also said that there are standards “out there” and he works to those standards to integrate components.

Mr. Johnson disagreed with a suggestion from the Union spokesperson that the only constraints on the grievor involve industry standards and departmental policies. He suggested that this would involve an entire job structure based on industry standards with no one asking the grievor to fix problems. He said that the grievor’s job is structured so that work comes to him through customers. He suggested that the Union spokesperson was seeking to take the customer out of the equation.

As discussed above, a note to raters indicates that level 3 rating involves situations where specific results are predetermined by others, which is generally the case with the grievor. The level 3 definition also refers to duties being completed according to general processes. A “process” is defined as a series of activities, changes or functions to achieve a result. This definition is not limited to repetitive tasks such as entering data as suggested by the grievor but can also encompass a series of activities. In light of the definition of “process” and its use in the level 3 definition I view the reference at level 4 to specific goals or objectives as referring to someone having a large degree of autonomy while working towards a goal or objective. This is not the same as undertaking a series of discrete activities such as fixing a projector, setting up equipment for a special event, testing and adjusting a flight simulator or coordinating the installation of new AV equipment into a room.

The reference in the level 4 definition to industry practices is not a reference to work being performed according to some generally accepted method or standard but rather to decisions being made using only industry practices (and also possibly departmental policies). The definition of industry practices set out in the job evaluation manual, including the reference to maintaining standards and quality across a range of organizations and settings, suggests a wider level of latitude in one’s work than ensuring that various aspects of AV equipment installed in a classroom will work together. The definition of policies speaks of broad guidelines for directing action to ensure proper and acceptable operations in working towards “the mission”. This logically addresses policies that set out broad parameters for an employee to work within rather than the employee being assigned relatively narrow tasks which is the situation with the grievor.

Having regard to these considerations I confirm the level 3 rating assigned by the College.

CONCLUSION

The various ratings assigned by the employer resulted in the grievor's position receiving a total of 510 points. An additional 32 points for a level 4 rating for the factor of analysis and problem solving raises the total to 542 points. This is within the range for payband H. Accordingly, I find that the grievance succeeds and that the grievor should have been paid on the basis of payband H.

I retain jurisdiction to address any issues which may arise directly out of this decision that the parties are unable to resolve.

Dated this 24th day of April 2008.

Arbitrator